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THIS IS NOT A DISCIPLINARY  
ACTION OR FINAL DECISION  
OF THE BOARD

8  
9 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2011-3

12 **PATRICK DAVID DUGAN**  
13 **6152 Nutwood Circle**  
14 **Huntington Beach, CA 92647**  
15 **Certified Public Accountant Certificate**  
**No. 49647**

**A C C U S A T I O N**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

22 2. On or about January 29, 1988, the California Board of Accountancy issued Certified  
23 Public Accountant Certificate Number 49647 (Certificate) to Patrick David Dugan (Respondent).  
24 The Certificate is subject to renewal every two years pursuant to California Business and  
25 Professions Code section 5070.5. The applicable renewal period for this Certificate begins July 1  
26 of even-numbered years.

27 3. The Certificate was expired and was not valid during the period July 1, 2000 through  
28 June 25, 2001, for the following reasons:

a. The renewal fee required by California Business and Professions Code section 5070.5 was not paid; and

b. A declaration of compliance with continuing education requirements was not submitted.

4. Effective June 26, 2001, the Certificate was renewed through June 30, 2002, upon receipt of the renewal fee and declaration of compliance with continuing education requirements (the certificate was “active”).

5. The Certificate was renewed for the period of July 1, 2002 through June 30, 2004, with continuing education (“active”).

6. The Certificate was expired and not valid during the period July 1, 2004, through June 30, 2006, for the reasons set forth in paragraph 3, above.

7. The Certificate was expired and not valid during the period July 1, 2006 through May 8, 2008, for the reasons set forth in paragraph 3, above.

8. Effective May 9, 2008, the Certificate was renewed through June 30, 2008, upon receipt of the renewal fee; however, compliance with continuing education requirements was not met ("inactive").

9. The Certificate was renewed for the period July 1, 2008 through June 30, 2010, without continuing education ("inactive").

10. The Certificate was renewed for the period July 1, 2010 through June 30, 2012, without continuing education ("inactive").

## JURISDICTION

11. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

12. Section 5109 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with

1 any investigation of or action or disciplinary proceeding against the licensee, or to render a  
2 decision suspending or revoking the license.

3 13. Section 5070.6 states, in pertinent part:

4 Except as otherwise provided in [Chapter 1, commencing with section 5000.1], an expired  
5 permit may be renewed at any time within five years after its expiration upon the filing of an  
6 application for renewal on a form prescribed by the board, payment of all accrued and unpaid  
7 renewal fees and providing evidence satisfactory to the board of compliance as required by  
8 Section 5070.5...

9 14. Section 5100 states, in pertinent part:

10 After notice and hearing the board may revoke, suspend, or refuse to renew any permit or  
11 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing  
12 with Section 5080), or may censure the holder of that permit or certificate for unprofessional  
13 conduct that includes, but is not limited to, one or any combination of the following causes:

14 . . . .

15 (a) Conviction of any crime substantially related to the qualifications, functions and duties  
16 of a certified public accountant or a public accountant...

17 . . . .

18 (g) Willful violation of this chapter or any rule or regulation promulgated by the board  
19 under the authority granted under this chapter...

20 . . . .

21 (i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

22 . . . .

23 (k) Embezzlement, theft, misappropriation of funds or property, or obtaining money,  
24 property, or other valuable consideration by fraudulent means or false pretenses.

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1 a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or  
2 materially misleading financial statements, reports or information.

3 18. Section 5106 states, in pertinent part, that a plea or verdict of guilty or a conviction  
4 following a plea of nolo contendere is deemed to be a conviction within the meaning of this  
5 article. The record of the conviction shall be conclusive evidence thereof.

6 19. Section 5121 states, in pertinent part, that the display or uttering by a person of a  
7 card, sign, advertisement or other printed, engraved or written instrument or device, bearing a  
8 person's name in conjunction with the words 'certified public accountant' or any abbreviation  
9 thereof or the words 'public accountant' or any abbreviation thereof shall be prima facie evidence  
10 in any prosecution, proceeding or hearing brought under this article that the person whose name is  
11 so displayed caused or procured the display or uttering of such card, sign, advertisement or other  
12 printed, engraved or written instrument or device. Any such display or uttering shall be prima  
13 facie evidence that the person whose name is so displayed holds himself or herself out as a  
14 certified public accountant, or a public accountant holding a permit to practice public  
15 accountancy in this State under the provisions of this chapter. In any prosecution or hearing  
16 under this chapter, evidence of the commission of a single act prohibited by this chapter shall be  
17 sufficient to justify a conviction without evidence of a general course of conduct.

18 20. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
19 revoke a license on the ground that the licensee has been convicted of a crime substantially  
20 related to the qualifications, functions, or duties of the business or profession for which the  
21 license was issued.

22 21. California Code of Regulations, Title 16, section 52, states in pertinent part that a  
23 licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days.  
24 The response shall include making available all files, working papers, and other documents  
25 requested. A licensee shall respond to any subpoena issued by the Board or its executive officer  
26 or the assistant executive officer in the absence of the executive officer within 30 days and in  
27 accordance with the provisions of the Accountancy Act and other applicable laws or regulations.  
28 A licensee shall appear in person upon written notice or subpoena issued by the Board or its

1 executive officer or the assistant executive officer in the absence of the executive officer. A  
2 licensee shall provide true and accurate information and responses to questions, subpoenas,  
3 interrogatories or other requests for information or documents and not take any action to obstruct  
4 any Board inquiry, investigation, hearing or proceeding.

#### 5 COST RECOVERY

6 22. Section 5107(a) of the Code states, in pertinent part, that the executive officer of the  
7 board may request the administrative law judge, as part of the proposed decision in a disciplinary  
8 proceeding, to direct any holder of a permit or certificate found to have committed a violation or  
9 violations of this chapter to pay to the board all reasonable costs of investigation and prosecution  
10 of the case, including, but not limited to, attorneys' fees. The board shall not recover costs  
11 incurred at the administrative hearing.

#### 12 FIRST CAUSE FOR DISCIPLINE

13 (March 30, 2010 Criminal Convictions for Grand Theft

14 by Embezzlement and Money Laundering)

15 23. Respondent is subject to disciplinary action under Business and Professions Code  
16 sections 490 and 5100(a), in that he was convicted of crimes that are substantially related to the  
17 qualifications, functions, and duties of a certified public accountant. The circumstances are as  
18 follows:

19 a. On or about March 30, 2010, in the matter of *The People of the State of*  
20 *California v. Patrick David Dugan*, in Orange County Superior Court, Case No. 09CF2167,  
21 Respondent was convicted on his plea of guilty to a violation of Penal Code section 487(a) (grand  
22 theft); and two counts of violation of Penal Code section 186.10(a) (money laundering). As part  
23 of his plea agreement, Respondent stated that on or about and between December 28, 2005 and  
24 December 26, 2007, Respondent willfully, unlawfully and fraudulently stole \$49,000.00 from the  
25 Rotary Club of Los Alamitos and Seal Beach, which had been entrusted to him as their treasurer;  
26 Respondent admitted he unlawfully conducted transactions exceeding \$5,000.00 within a seven  
27 day period on December 28, 2005 and February 15, 2006....through a financial institution...with  
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1 the intent to carry on, facilitate, manage and promote criminal activity, knowing the proceeds  
2 were derived directly and indirectly from the proceeds of criminal activity, namely grand theft.

3 b. As a result of the convictions, on or about March 30, 2010, Respondent was  
4 sentenced to serve 90 days in Orange County Jail, three years formal probation, and payment of  
5 fines and fees in the amount of \$520.00.

6 c. The facts that lead to the convictions were that beginning on or about  
7 December 28, 2005, Respondent began stealing funds while he served as the treasurer for the Los  
8 Alamitos Rotary Club. In April 2008, the president and president-elect of the Rotary Club  
9 discovered the missing funds, and on or about May 2, 2008, they confronted Respondent  
10 regarding the missing funds. On or about May 5, 2008, Respondent had replenished the Rotary  
11 Club accounts with all of the missing funds. On or about May 15, 2008, the president of the  
12 Rotary Club reported the matter to the police, and a criminal prosecution followed.

### 13 **SECOND CAUSE FOR DISCIPLINE**

14 (Fiscal Dishonesty and Breach of Fiduciary Duty)

15 24. Complainant incorporates by reference as though fully set forth herein the allegations  
16 contained in paragraphs 1-23, above.

17 25. Respondent is subject to disciplinary action under Business and Professions Code  
18 section 5100(i), for fiscal dishonesty and breach of fiduciary duty, in that Respondent admitted  
19 that on or about and between December 28, 2005 and December 26, 2007, Respondent willfully,  
20 unlawfully and fraudulently stole \$49,000.00 from the Rotary Club of Los Alamitos and Seal  
21 Beach, which had been entrusted to him as their treasurer; Respondent admitted he unlawfully  
22 conducted transactions exceeding \$5,000.00 within a seven day period on December 28, 2005 and  
23 February 15, 2006....through a financial institution...with the intent to carry on, facilitate,  
24 manage and promote criminal activity, knowing the proceeds were derived directly and indirectly  
25 from the proceeds of criminal activity, namely grand theft.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Grand Theft by Embezzlement)

3 26. Complainant incorporates by reference as though fully set forth herein the allegations  
4 contained in paragraphs 23-25, above.

5 27. Respondent is subject to disciplinary action under Business and Professions Code  
6 section 5100(k), for embezzlement and theft, in that on or about March 30, 2010, in the matter of  
7 *The People of the State of California v. Patrick David Dugan*, in Orange County Superior Court,  
8 Case No. 09CF2167, Respondent was convicted on his plea of guilty to a violation of Penal Code  
9 section 487(a) (grand theft); and two counts of violation of Penal Code section 186.10(a) (money  
10 laundering). As part of his plea agreement, Respondent stated that on or about and between  
11 December 28, 2005 and December 26, 2007, Respondent willfully, unlawfully and fraudulently  
12 stole \$49,000.00 from the Rotary Club of Los Alamitos and Seal Beach, which had been  
13 entrusted to him as their treasurer; Respondent admitted he unlawfully conducted transactions  
14 exceeding \$5,000.00 within a seven day period on December 28, 2005 and February 15,  
15 2006....through a financial institution...with the intent to carry on, facilitate, manage and  
16 promote criminal activity, knowing the proceeds were derived directly and indirectly from the  
17 proceeds of criminal activity, namely grand theft.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Misleading Use of Title)

20 28. Complainant incorporates by reference as though fully set forth herein the allegations  
21 contained in paragraphs 23-27, above.

22 29. Respondent is subject to disciplinary action under Business and Professions Code  
23 sections 5100(g), 5050, 5051 and 5121, in that he has continued to hold himself out as a licensed  
24 Certified Public Accountant by way of the display or uttering of a card, sign, advertisement or  
25 other printed, engraved or written instrument or device, bearing his name in conjunction with the  
26 abbreviation "cpa," while his Certificate is "inactive" and he is not legally licensed to practice as  
27 a Certified Public Accountant. The facts and circumstances are as follows:  
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a. On or about January 8, 2011, Respondent sent an email to a prospective client with the subject "new contact info," and asking the client to let him know if he can "help her" this year. Respondent solicited this prospective client via email while using the "cpa" designation in his email domain name, "[dave@dugancpa.com](mailto:dave@dugancpa.com)."

### FIFTH CAUSE FOR DISCIPLINE

(Failure to Timely Report Felony Conviction)

30. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 23-29, above.

31. Respondent is subject to disciplinary action under Business and Professions Code sections 5100(g) and 5063, in conjunction with California Code of Regulations Title 16, section 52, as follows:

a. Respondent failed to report in writing to the Board within 30 days that he had been convicted of a felony, or any crime related to the qualifications, functions, or duties of a licensee or committed in the course and scope of practice of public accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports or information, as required pursuant to Code section 5063.

Respondent was convicted on March 30, 2010, as detailed above. On April 13, 2010, an enforcement analyst for the Board sent Respondent a letter requesting a written explanation of the facts underlying his conviction. On May 13, 2010, Respondent provided a License Reporting Form on Reportable Events and reported his felony convictions, entered on March 30, 2010, and provided an explanation, more than 30 days after the date of the conviction.

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PRAYER

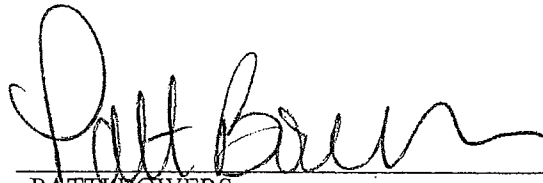
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 49647, issued to Patrick David Dugan;

2. Ordering Patrick David Dugan to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/25/2011



PATTY BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
*Complainant*

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